UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/389,567	09/03/1999	JAY BRUCE ROSS	OGPT-24727	5576

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EXAMINER
ELLIS, RICHARD L

ART UNIT	PAPER NUMBER
2183	

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 August 2003</u> .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>15-34</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>15-34</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on <u>11 December 2000</u> is: a)☒ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)		4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .	
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) ☐ Notice of Informal Patent Application (PTO-152)	
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6) ☐ Other: .	

1.   Claims 15-34 remain for examination.

2.   The text of those sections of Title 35, US Code not included in this action can be found in a prior Office Action.

3.   Claims 15, 17-20, 22, 25, 27-30, 32 are rejected under 35 USC 102(b) as being clearly anticipated by Letcher, U.S. Patent 4,786,829.

4.   Claims 16, 21, 23-24, 26, 31, and 33-34 rejected under 35 USC § 103 as being unpatentable over Letcher, as applied to claims 15, 17-20, 22, 25, 27-30, 32, <u>supra</u>.

        <u>Letcher</u> was cited as a prior art reference in paper number 6, mailed May 1, 2003.

5.   The rejections are respectfully maintained and incorporated by reference as set forth in the last office action, paper number 6, mailed May 1, 2003.

6.   Applicant's arguments filed August 4, 2003, paper number 7, have been fully considered but they are not deemed to be persuasive.

7.   In the remarks, applicant argues in substance:

7.1.   That: "In accordance with the specification, an "opcode" controls the desired logical operations to be performed on the serial bit streams input (page 27, lines 24-25). The "opcode" is also called a "function bit map" (page 34, line 22). The opcodes operate on said input combinations by designating the function that will be applied to the input combinations".

        This is not found persuasive because applicant's cited quotations from the specification do not make logical sense from the PTO copy of the printed specification. Page 27 lines 24-25 in the PTO copy of the specification states exactly:

        "output of the relational processor 416 (an intermediate collection which is the results from performing logical operations on two or more of the collections at the input of the relational"

And page 34 line 22 is below the bottom of table 3 and page 34 ends at the bottom of table 3. It appears that the copy of the specification that applicant has within his files has different pagination from the copy of the specification filed with the USPTO. Applicant is advised to submit a power to inspect and make copies request and thereby make a full photo copy of the exact specification filed in the USPTO for his own use in referencing to page and line numbers within the specification.

        Additionally, applicant is reminded that it is the claims which define the invention, not the specification, and that if applicant wishes to have limitations present within the specification provide limitations in the claims, applicant must amend the claims to contain

those limitations.

> "limitations appearing in the specification will not be read into the claims, and ... interpreting what is <u>meant</u> by a word <u>in</u> a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.'" *Intervet Am., v. Kee-Vet Labs.*, 12 USPQ2d 1474, 1476 (Fed. Cir. 1989).

7.2.   That: "Letcher, on the other hand, teaches a latched input X1 and a latched feedback input Y1. The function f of memory 18 is not defined by Y1, rather Y1 is one of the variables fed into the function. As defined in column 2, line 54, $Y(t+T):: = f(X(t),Y1(t))$ and in claim 6, $Y: = F(X,Y)$. Y1 does not "operate on said input combinations," but is in fact one element of the input combinations.

Claim 25 includes the limitation:

the selected one of the one or more opcodes operates on the input combinations

Again, Letcher does not disclose an opcode that operates on the input combinations. As such, Letcher does not anticipate claims 15 or 25."

This is not found persuasive because it is the claims which define the invention. In the present case, claim 15 states:

> "an opcode input ... for inputting ... opcodes, which ... opcodes operates on said input combinations"

As seen from the claim language, the term "opcode" is used as an identifying label to refer to an input data value which has the claimed function of "operate[ing] on said input combinations". Looking to figure 3 of Letcher, it is clearly seen that there are "input combinations" to Letcher's circuit on input line X, latched by latch 16, becoming input X1 to function memory 18). So therefore, there are input combinations present with Letcher. Additionally, there is a second input to function memory 18 shown on figure 3, that of input Y1. The input Y1 has been associated with applicant's item labeled "opcode" and the next questions is, does input Y1 "operates" on the input combinations present on X1. The meaning of the term "operate" is:

> "**operate 1:** to perform a function : exert power or influence **2:** to produce an appropriate effect **3 a:** to perform an operation or a series of operations **b:** to perform surgery **c:** to carry on a military or naval action or mission **4:** to follow a course of conduct that is often irregular *vt* **1:** bring about, effect **2 a:** to cause to function: work **b:** to put or keep in operation **3:** to perform an operation on; esp: to perform surgery on"

Because applicant's claim is utilizing operates in an active, or verb form, meanings 1, 2 or 3 after "vt" are most applicable to applicant's claims. Since applicant is clearly not performing surgery, vt(3) is not the likely meaning applicant intends to use. That leaves vt(1, 2a, and 2b) as meanings for the term in the claim language. In the case of Letcher, input Y1 will "bring

about, [or] effect" the outputs of function memory 18 because input Y1 is utilized along with input X1 to derive outputs Y1' and Y2' (col. 2 lines 54-56, col. 3 lines 2-14). Therefore, Letcher indeed "operates on said input combinations" using an input Y1, therefore that input Y1 is an "opcode" within the context of the scope of the claimed invention. A similar constructions occurs using vt(2a) in that input Y1 "causes to function: work" the function memory 18 upon input X1 to generate outputs Y1' and Y1'. For vt(2b), input Y1 causes function memory 18 to be "put or [kept] in operation" by producing outputs Y1' and Y2'. Additionally, Y1 causes function memory 18 to "perform an operation on" input X1 because the output of function memory 18 is direct result of both input X1 and input Y1. Maintaining X1 constant while changing the value of Y1 will result in different Y1' and Y2' outputs from the function memory, which is a "perform[ance of] an operation on" the input value X1.

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.
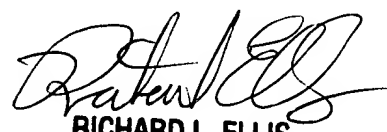
A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9.   Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Richard Ellis whose telephone number is (703) 305-9690. The Examiner can normally be reached on Monday through Thursday from 7am to 5pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eddie Chan, can be reached on (703) 305-9712. The fax phone number for the USPTO is: (703)872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

RICHARD L. ELLIS
PRIMARY EXAMINER

Richard Ellis
October 16, 2003